



Gas networks in transition

Consultation paper

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About the Justice and Equity Centre

The Justice and Equity Centre is a leading, independent law and policy centre. Established in 1982 as the Public Interest Advocacy Centre (PIAC), we work with people and communities who are marginalised and facing disadvantage.

The Centre tackles injustice and inequality through:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change to deliver social justice.

Energy and Water Justice

Our Energy and Water Justice work improves regulation and policy so all people can access the sustainable, dependable and affordable energy and water they need. We ensure consumer protections improve equity and limit disadvantage and support communities to play a meaningful role in decision-making. We help to accelerate a transition away from fossil fuels that also improves outcomes for people. We work collaboratively with community and consumer groups across the country, and our work receives input from a community-based reference group whose members include:

- Affiliated Residential Park Residents Association NSW;
- Anglicare;
- Combined Pensioners and Superannuants Association of NSW;
- Energy and Water Ombudsman NSW;
- Ethnic Communities Council NSW;
- Financial Counsellors Association of NSW;
- NSW Council of Social Service;
- Physical Disability Council of NSW;
- St Vincent de Paul Society of NSW;
- Salvation Army;
- Tenants Union NSW; and
- The Sydney Alliance.

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The Justice and Equity Centre office is located on the land of the Gadigal of the Eora Nation.

Australian Sustainable Built Environment Council

The Australian Sustainable Built Environment Council (ASBEC) is the peak body of key organisations committed to a sustainable built environment in Australia. ASBEC's membership consists of industry and professional associations, non-government organisations and government observers who are involved in the planning, design, delivery and operation of our built environment, and are concerned with the social and environmental impacts of this sector.

Nature Conservation Council of New South Wales

The Nature Conservation Council of New South Wales (NCC) is the state's peak environment organisation. We represent over 200 environment groups across NSW. Together we are dedicated to protecting and conserving the wildlife, landscapes and natural resources of NSW.

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Recommendations

Recommendation 1

That the AEMC adopt the guiding principle that a fit for purpose regulatory framework must be able to appropriately consider and efficiently deal with the likely future retreat of gas networks.

Recommendation 2

That the AEMC clarifies its assessment criteria to more appropriately centre equity and outcomes for consumers, in line with a more holistic consideration of what a 'fit for purpose' regulatory framework requires.

Recommendation 3

That the AEMC undertakes more work to appropriately select and contextualise examples from other jurisdictions that are examined. In doing so, it should give more attention to comparing diverse approaches to relevant aspects of regulated sectors with declining demand. The focus should be on highlighting and assessing different approaches to key questions raised in the rule changes.

Recommendation 4

That the Draft Rule adopts ECA's proposed rule change on capital expenditure criteria, with the following clarifications:

- *Requiring evidence of the preferability of a capital expenditure proposal compared to alternatives to investment, and*
- *Providing a more detailed definition of future abolishment costs.*

Recommendation 5

That for Rule 69, the example of operating expenditure related to increasing demand is removed and expenditure on decommissioning as an example of operating expenditure is inserted instead.

Recommendation 6

That the Draft Rule adopts a solution that provides appropriate mechanisms to manage asset stranding risk that is effective and fair for consumers. It must provide a principled and consistent approach to:

- *Identifying assets at risk of stranding,*
- *Quantifying the associated risks, and*
- *Determining a consistent, fair and equitable means of sharing the costs associated with those risks.*

Recommendation 7

That the Draft Rule adopts ECA's proposed rule change on planning requirements. The AEMC should consider how this would be complemented by sufficiently granular, independently verified demand forecasting.

Recommendation 8

That the AEMC consider how the outcomes from this rule change process interact with other concurrent rule change processes and ensure these processes are informed by a consistent intent to create a fit for purpose gas regulatory framework.

Recommendation 9

That as part of this rule change process, the AEMC makes recommendations regarding required action outside of the immediate rule change processes under its purview, including recommending relevant wider law and policy changes.

Recommendation 10

That the AEMC recommends policy and law changes required to alter the national energy objectives so that the National Electricity Objective and the National Gas Objective refer to the long-term interests of consumers of energy rather than electricity and covered gas respectively.

Acronyms list

Acronym	Full name
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
ASBEC	Australian Sustainable Built Environment Council
ECA	Energy Consumers Australia
GAPR	Gas Annual Planning Report
JEC	Justice and Equity Centre
NCC	Nature Conservation Council of New South Wales
NEO	National Electricity Objective
NGL	National Gas Law
NGO	National Gas Objective
NGR	National Gas Rules
RAB	Regulated asset base

1. Introduction

The Justice and Equity Centre (JEC), Australian Sustainable Built Environment Council (ASBEC) and Nature Conservation Council of New South Wales (NCC) welcome the opportunity to respond to the Australian Energy Market Commission's (AEMC) Gas Networks in Transition consultation paper. This process is a critical and overdue opportunity to ensure the regulatory framework for gas networks is fit for purpose and capable of best promoting the interests of consumers throughout the energy system transition.

A consistent basis to guide consideration of gas network regulatory reform

The current legal and regulatory framework for gas networks is fundamentally unfit for purpose. It is founded on an assumption of continuity and indefinite growth in the gas network, and in many cases assumes active promotion of this growth as promotes efficiency. This is no longer appropriate in the context of the energy transition. It distorts decision making and effective assessments and promotion of efficiency and the consumer interest.

The rule change proposals in this process highlight specific issues within the regulatory framework which can be regarded as 'symptoms' of this wider unfitness for purpose. We welcome the AEMC's efforts to identify other aspects of the framework which are similarly unfit and should be considered for appropriate reform.

The process of considering the proposed rule changes, and wider aspects of the regulatory framework requires the AEMC to define what a 'fit for purpose' framework looks like. This enables a consistent basis from which to identify priority areas for regulatory reform as well as how the rule change proposals should be resolved holistically. We contend that where the 'unfitness for purpose' of the current framework results from assumptions of growth, a 'fit for purpose' framework must be capable of efficiently considering and managing network decline and retreat as well.¹

Appropriately considering and managing uncertainty in the future of gas networks

We contend the level and impact of uncertainty relating to gas networks is overstated.

We do not agree there is a broad "uncertainty over the future role of gas distribution networks in supplying gas to households and small commercial customers".² Australian governments at all levels have established emissions reductions commitments and targets. Most independent evidence and advice asserts that meeting these targets requires rapid renewable electrification of gas network connections and policies at all levels are increasingly adopting measures to encourage and support electrification of residential reticulated gas use.

¹ We consider this in detail in section 2.1.

² Australian Energy Market Commission, 2025, [National Gas Rule Amendments 2026 \(Gas Networks in transition\) Consultation Paper](#), p i.

Electrification is forecast to accelerate³, as is the decline of gas demand. In this context, uncertainty exists, but it relates more narrowly to how quickly these trends will occur and what the path to small customer 'electrification' will look like.

Being predicated on, assuming and promoting growth, the current regulatory framework cannot effectively assess and deal with uncertainty at this level. It encourages businesses and the AER to view and respond to these questions as risks or threats to growth, rather than through the lens of how best to assess and promote the interests of energy consumers.

While the future of gas networks is most likely to be one of household electrification and rapid network retreat, it is not necessary to share this vision to agree that a fit for purpose regulatory framework must be able to appropriately consider and deal with these possibilities efficiently, and in promotion of the interests of energy consumers. This is not currently the case. We strongly recommend the AEMC regard this fact as a guiding principle in consideration of these rule changes and the need for wider regulatory reform.

Recommendation 1

That the AEMC adopt the guiding principle that a fit for purpose regulatory framework must be able to appropriately consider and deal with the various possible futures for gas networks efficiently, and in promotion of the interests of energy consumers.

2. Approach to the rule change

This rule change process presents a significant opportunity to address long-standing issues with the regulatory framework for gas networks. Getting the framework right is crucial to ensuring better consumer outcomes and protecting vulnerable consumers. It is also a critical enabler of efficient emissions reduction. We urge the AEMC to clearly set out the outcomes it seeks to achieve through this process with the overarching purpose to ensure the legal and regulatory framework is 'fit-for-purpose'. We contend the AEMC should also consider recommending changes to ensure the NGL (and NGO itself) to ensure they are consistent with and contribute to what it determines is a fit for purpose regulatory framework.

As we note in the introduction, we contend a fit for purpose legal and regulatory framework for gas should be one in which:

- There is no assumption of or promotion of network growth,
- The interests of 'energy consumers' are considered holistically,
- Risks are transparently revealed and placed with the party best capable of managing them,
- Costs are transparent and efficient and recovered from the beneficiary/causer of those costs,
- Decisions and assessment of prudence and efficiency can effectively consider, assess and promote gas demand reduction, network conversion and network retreat, and
- Investment and operation decisions can effectively optimise emissions reduction to ensure emissions reduction is rapid and efficient.

³ AEMO, 2025, [2025 Gas Statement of Opportunities](#), p 16.

2.1 Considerations for a ‘fit for purpose’ regulatory framework

As we have argued, a ‘fit for purpose’ regulatory framework need not be predicated on a particular outcome or assumption, but it must be able to effectively and efficiently deal with gas demand decline and the retreat of gas networks given the current state and trajectory of government policy and future forecasts.

While we strongly disagree that there is significant uncertainty about the future role that gas distribution networks will or should play for households, the need for reform – including the proposed rule changes – is not dependent upon sharing our perspective. The regulatory framework cannot and should not be predicated on growth, but this fundamental issue can be resolved without assuming the corollary is true. All likely futures include a material change in the shape and extent of gas networks. To effectively serve and promote the consumer interest, the regulatory framework must then be sufficiently flexible to support various trajectories of efficient electrification and network conversion and retreat.

In answering the question of what a ‘fit for purpose’ regulatory framework should be, we recommend the AEMC consider the following:

Efficiency

Rather than promoting growth of the gas network, the regulatory framework must promote a holistic assessment of efficiency.

This means enabling efficient investments and operations, which are those that are prudent in the specific circumstances of that network and its assets in the context of the most likely future demand scenario. Critically, efficiency must also be able to apply to decisions enabling the orderly retreat and subsequent maintenance of the network, to ensure emissions reduction and limit costs to consumers.

Risk management

The regulatory framework must enable and ensure that risks are appropriately carried by the party best placed to manage them.⁴ It should also embed strong incentives to ensure risks are effectively managed and mitigated in the best interests of energy consumers (rather than just gas consumers).⁵

The AER has stated that while network companies are entitled to a reasonable opportunity to recover their investments, consumers are not required to guarantee full costs recovery.⁶ Like any other business undertaking investment, network service providers bear risks including those of stranded assets.

⁴ Refer to the table 1 at the end of this section for a detailed example of how a principled approach to sharing risk and cost should be structured.

⁵ Refer to detail on page 8

⁶ See Australian Energy Regulator, 2021, [Regulating gas pipelines under uncertainty information paper](#), p. 29; Australian Energy Regulator, 2025, [Jemena Final Decision 2025-2030 Attachment 4](#), p.20.

The reduction in demand for use of the domestic gas networks is an entirely foreseeable risk which any prudent business should seek to manage.

Equity

Equity must be defined holistically.

To date equity in gas network regulation is commonly only viewed in the context of intergenerational equity, and then narrowly viewed as an obligation on today's consumers to assume costs to improve equity of outcomes for future consumers. This is not a fair reflection of the relevant equity considerations and contributes to decisions which are not in the interests of energy consumers. While decisions must consider the risk of shifting unfair cost burdens onto future generations, there are also consequences to the reverse which must be considered in context.

Beyond intergenerational equity, there is also consideration of equity between consumer cohorts, including (but not limited to) between:

- Consumers with and without the agency to electrify – renters, low-income households,
- Residential consumers (for whom there are more efficient electric alternatives) and business and industrial consumers (for whom efficient alternatives may be less available),
- Large consumers and low use consumers.

The current narrow consideration of equity as intergenerational (and largely one way) has contributed to reliance on tools such as accelerated depreciation, and the likelihood that today's consumers are assuming an unfair proportion of cost and risk.

Current accelerated depreciation practices unfairly shift the costs related to all risks of future asset stranding onto 'today's' consumers. A more equitable approach would involve exposing gas network service providers to at least some demand risk and incentivising more proactive planning, investment and operation to reduce risks. Today's consumers, especially those with limited choice to electrify, are not well-placed to manage future asset stranding risk and should not be expected to carry the associated costs in full.

People who face barriers to electrification or who are otherwise more vulnerable to increasing energy costs, including renters and apartment-dwellers, should not be unfairly burdened with an unreasonable share of the costs of investment (future or past) in the network. This is particularly relevant in relation to the costs of 'speculative' investment to enable future gas use by industrial or commercial users.

The risk of the transition further entrenching inequity and disadvantage must be mitigated where possible. This involves ensuring demand reduction and electrification can be appropriately considered as part of planning the most efficient utilisation of and investment in energy services. A fit for purpose regulatory framework would enable gas networks to support consumers to leave a part of the network that is no longer efficient to operate.

Transparency

In managing uncertainty, transparency is needed to enable consumers, market participants and investors to make efficient decisions. This is critical to enabling the safe, reliable and secure

operation of the network for those customers remaining on the parts of the network which continue to be used, alongside efficient retreat or network conversation. Gas networks should share information on their future operations as well as the evidence-based criteria which shape their decisions-making, to help meet communities' or regulators' information needs.

Operators need to be held accountable for managing and reducing uncertainty where possible. Any assumptions that are made by proponents or regulators must be clear and transparent. A lack of transparency can enable unreasonable assumptions to drive inefficient decisions which are not in the interests of energy consumers. For example, unreasonable assumptions regarding the viability of renewable gases and the availability of emissions offsets can enable the cost of inefficient investment in 'renewable gas' connections being carried by consumers. This is not in consumers' interests and can ultimately delay the transition to net zero. Consumers should not be expected to bear the costs of capital expenditure with a subjective business case, or future risks which are not transparently defined and demonstrated.

Beneficiary/causer pays cost recovery

Costs must be recovered according to robust and consistent principles. We recommend a beneficiary-pays approach, or a causer-pays approach where a clear beneficiary cannot be identified. In such cases, the "causer" is typically defined as the proponent of the activity. As we have noted, we support allocating risk to the party best placed to manage it. This distinction is critical, as the beneficiary is often not the best placed party to manage or carry the cost of risk (for instance, consumers are not best placed to manage to cost of future asset stranding risk in gas networks).

Asset / Service / Cost item	Beneficiary / Causer (proponent)	Who should pay	Who should carry risk of under-recovery
Cost of dedicated new connection	The consumer connecting	The consumer connecting	N/A – cost should be recovered up front
Cost of shared new pipes for developments	Developer (proponent) and future consumers (beneficiary)	Developer	N/A – cost should be recovered up front
Cost of shared new pipes for network expansion	Gas network business shareholders (proponents) and future consumers of that portion of network (beneficiaries)	Future customers of that portion of network (limited to the fair and efficient cost to serve them)	Shareholders
Cost of augmenting existing network for renewable gases.	Shareholders (proponent) Consumers remaining on the gas network approaching 2040/50 (as beneficiaries of longer use of the network asset than they would in absence of renewable gas)	All consumers (limited to the fair and efficient cost to serve them) and shareholders	Shareholders
Opex for existing network	All consumers	All consumers (limited to the fair and efficient cost to serve them)	Shareholders

Opex for future expanded network	Future consumers of that portion of network	Future customers of that portion of network	Shareholders
Recovery of existing RAB (and capital cost of maintaining existing network)	A mix of (1) all consumers (beneficiaries); (2) shareholders (proponents of historical expansion and beneficiaries through investment returns); and (3) state government (as proponent and seller of privatising gas networks and as proxy for society as beneficiary)	All consumers (limited to the fair and efficient cost required to serve them)	Shareholders and Government
Cost of permanently disconnecting dedicated assets (abolishment)	The customer disconnecting	Preferably government, otherwise the customer disconnecting	Government
Remediation costs of shared assets	N/A	Shareholders and/or Government	Government
Write-down of RAB (or other measure to shift transition cost from consumers)	All consumers Shareholders (when Government pays down portion of RAB not recoverable from consumers)	Shareholders and/or Government	N/A – realised risk
Lost future shareholder profit	N/A	Shareholders	N/A – realised risk

2.2 Applying our considerations to the AEMC’s assessment criteria

In light of these considerations, we broadly support the proposed assessment criteria but have some concerns with how they are characterised. We recommend clarifying the criteria to more appropriately centre equity and outcomes for consumers, in line with a more holistic consideration of what a ‘fit for purpose’ regulatory framework requires.

Outcomes for consumers

It is critical to recognise that the current regulatory framework does not deliver optimum outcomes for consumers. There is good evidence that regulated gas networks are consistently making profits above those allowed by the AER, which indicates they are compensated for demand risks presented in support of proposals for accelerated depreciation.⁷ It is fundamentally not in consumers’ interests – and not a good outcome for consumers – to carry more costs than necessary.

Equity

As noted above, we consider that equity considerations must extend beyond the intergenerational and include distributional equity. The AEMC’s assessment of the rules – and wider opportunities for reform - must consider how they contribute to better consideration of which cohorts are likely to be more affected by cost sharing decisions and how they provide a more robust basis to ensure fair cost recovery and cost sharing. Not factoring in distributional equity risks further

⁷ Institute for Energy Economics and Financial Analysis, 2024, [Gas networks are making persistent and significant supernormal profits](#)

entrenching the disadvantage that certain people, including renters, apartment-dwellers and low-income households, face in the energy transition.

Consumer wants and needs

We urge the AEMC to exercise caution in how it defines and considers “consumer wants and needs”. Consumers’ preferences cannot always be reliably determined based on behaviour. This is particularly true in the case of gas use where, for many consumers, continued gas use is a result of inertia rather than an exercise of active choice or even preference. For these consumers substantial shifts in economics or policy, or even the impact of life decisions, could be expected to result in efficient electrification decisions.

There is likely to be a much smaller proportion of residential gas users who continue to use gas because of an active preference for it. In these cases it is also important to consider that those preferences can be based on incorrect perceptions or assumptions – for instance, that gas is lower emissions or more efficient. These perceptions could be amenable to change in response to new information or economic incentives.

Many consumers are unaware of the benefits of electrification or have a broad assumption that the upfront costs outweigh the benefits. As shown by the network-wide transition in Esperance, most consumers can and will electrify if supported to do so, even in the most difficult of circumstances.⁸

It is critical for the AEMC to establish genuine needs and strong preferences and distinguish them from those which are more influenced by circumstance or other variable factors.

Safety, security and reliability

While it is imperative that gas network service providers appropriately maintain the safety and security of the network, standards and safety requirements are already regulated at the state- or territory-level and this will continue to be the case. If planned effectively, gas networks can be maintained to meet security/safety standards, with a view to support the electrification of households before it becomes more difficult to efficiently maintain the network reliably and safely.

We caution against seeing reform only as a potential threat to safety and reliability.

Emissions reduction

We recommend the AEMC further expand its question of ‘Would the solution support emissions reduction?’ to consider the materiality and efficiency of the emissions reduction supported. When valuing emissions reduction potential of different options, weight must be given to:

- the scientific certainty of emissions reduction potential,
- the relative magnitude of emissions reduction compared to the status quo and alternatives,
- the timing of emissions reduction resulting from the option, and

⁸ Western Australia Government, 2023, [Esperance electrification project an energy transition first](#)

- the ‘reasonableness’ of the assumptions underpinning emissions reduction solutions.

Simply asking the question of whether the solution supports emissions reduction risks an assessment on a theoretical level which does not adequately capture the relative benefits of different options. This level of analysis is critical to assessing the prudence and efficiency of decisions and, ultimately, whether they best promote the interests of energy consumers.

For instance, in considering the efficiency and potential of renewable gas injections and use in households, it is necessary to go beyond a ‘gateway’ assessment of whether this is capable of supporting emissions reduction – where immaterial percentage reductions could enable this question to be answered in the positive.

The environmental and economic case for renewable gas at scale is yet to be made, especially when compared to the case for renewable electrification of residential connections. In recent years, several gas networks have based their emissions reductions plans on the flawed premise that renewable gas connections can efficiently support net zero trajectories.⁹ This has the potential to further delay and undermine emissions reduction and, most problematically, enable inefficient investment in solutions which add undue costs for energy consumers.

The assessment of emission reduction must be more nuanced and framed with reference to meeting emissions reduction commitments and targets.

Principles of market efficiency

We recommend that when considering incentives, the AEMC also asks whether the solution prevents inefficient spending and provides better incentives to plan for an orderly transition.

Implementation considerations & principles of good regulatory practice

Both criteria appear to be assessing a perceived trade-off between regulatory flexibility and certainty, and how this affects sector and consumers. We caution against regarding certainty and flexibility as inherently in conflict. A fit for purpose regulatory framework should provide more flexibility to enable efficient decision making in relation to network retreat and conversion, but it need not do so by removing regulatory certainty in how principles are enacted and decisions considered.

We caution the AEMC not to place undue weight on a particular view of regulatory stability. We also question whether regulatory stability at a time of reform and transition is even possible or desirable.

In any case, regulatory certainty is more important than regulatory ‘stability’. This is a particularly important nuance to recognise in the face of evidence the failings of the current regulatory framework have enabled gas networks to benefit at consumers’ expense.¹⁰ The earlier a change can be signalled, the more chance gas networks have to plan appropriately for upcoming access arrangement proposals. Delaying change risks exacerbating inequities arising from the inefficient

⁹ For example see Australian Gas Networks, [AGN SA 2026-2031 Final Plan Attachment 6.4](#) 2025, pp 2-3; Jemena Gas Networks, 2024, [JGN 2025 Plan](#), p x.

¹⁰ Institute for Energy Economics and Financial Analysis, 2024, [Gas networks are making persistent and significant supernormal profits](#), p 5.

gas network investment and operation. Urgent action is needed to prevent further inefficient investment in gas networks and inequitable shifting of demand risk onto consumers.

Recommendation 2

That the AEMC clarifies its assessment criteria to more appropriately centre equity and outcomes for consumers, in line with a more holistic consideration of what a 'fit for purpose' regulatory framework requires.

2.3 Considering experiences from other jurisdictions

We welcome the AEMC's work to examine experiences and approaches in other jurisdictions. However, we have some concerns with how this work has been presented and recommend that more work is done to appropriately select and contextualise the examples examined to ensure meaningful conclusions can be drawn.

The cases investigated in detail all appear to be relatively similar in key aspects of their approach. The value of examining a range of approaches would be to highlight examples where there is a relevant difference in approach to key questions (for instance, the sharing of costs related to stranded assets). All the examples considered in detail are from jurisdictions that guarantee compensation for stranded assets, whereas the paper only briefly notes examples of jurisdictions where this is not the case. We recommend that the AEMC give more attention to the diversity of ways in which countries have regulated sectors with declining demand. The focus should be on highlighting different approaches to key questions raised in the rule changes.

Overall, the relevancy of European gas network case studies also needs to be contextualised to recognise the limitations on their relevance to circumstances Australian gas network regulatory face. In particular, we highlight:

- The greater population density in Europe and the implications of this in the economic capacity to sustain two energy networks (gas and electricity),
- The higher reliance on and prevalence of gas heating,
- The impact of abrupt energy security risks as the European Union transitions away from its dependence on Russian gas imports¹¹,
- The lower penetration of renewable electricity (particularly rooftop solar), and less potential for low-cost grid-scale renewable electricity, and
- A stronger future outlook for renewable gas generation and usage resulting from fundamental economic and industrial differences.

These are fundamental differences which have material implications for the relative importance of gas networks and the key drivers for decision-makers. Broadly, Australia has a greater opportunity for widespread, efficient and orderly electrification (particularly of households) supported by renewables and rooftop solar. Australian gas network service providers have sufficient opportunity to strategically plan for a declining demand which is increasingly likely. The

¹¹ Council of the European Union, 2025, [Council agrees its position on rules to phase out Russian gas imports under REPowerEU](#)

need for accelerated capital cost recovery to maintain the long-term viability of gas networks, as consistently used in the European examples, is therefore arguably much less clear here.

Recommendation 3

That the AEMC undertakes more work to appropriately select and contextualise examples from other jurisdictions that are examined. In doing so, it should give more attention to the diversity of ways in which countries have regulated sectors with declining demand. The focus should be on highlighting different approaches to key questions raised in the rule changes.

3. Considering the rule change proposals

Energy Consumers Australia (ECA) and the JEC have proposed these rule changes with a shared understanding of the problem – that the current framework is not fit for purpose – and a vision of the priority issues to be addressed through the proposed rule changes. These rule changes are key practical steps to address the impacts of the ‘growth bias’ in the regulatory framework.

The four rule change proposals aim to address distinct issues with the regulatory framework but should be considered holistically due to their complementary and integrated nature. We recommend the AEMC continues to consider these rule changes as a package.

3.1 Capital expenditure criteria

The question of efficient investment by gas network service providers and their reasonable opportunity to recover prudent and efficient costs rests on ensuring prudent and efficient costs (such as those related to capital expenditure) are effectively and appropriately defined.

ECA’s proposed changes to Rule 79 intends to ensure guidance on network capital expenditure results only in expenditure that is efficient and best promotes the consumer interest, regardless of the future prospects of the network. That is, it intends to ensure assessments of prudent and efficient are not predicated on unreasonable assumptions regarding the future growth of the network, but based on the actual circumstances of the network.

The current capital expenditure test in Rule 79 functions on the overarching premise of a ‘perpetual’ or growing gas system. Gas networks have continued to propose sustained high levels or increases in capital expenditure in their access arrangements, with the current regulatory processes not providing for sufficiently robust justification or scrutiny of proposals. This has resulted expenditure being approved in recent access arrangements without being required to assess the full range of (potentially more efficient) alternatives.

In many cases, this takes the form of capital expenditure to support the ongoing and future use of the network beyond 2050, without a requirement to demonstrate this is a reasonable assessment. In some cases the expenditure is predicated on future use of renewable gases. As noted earlier, there is a highly questionable economic and emissions reduction case for network-wide use of renewable gas, especially when compared to the more efficient option of electrification. The existing framework does not provide for or require robust assessment of justifications for such expenditure.

We agree with ECA that the current criteria do not provide sufficient prescription to ensure a robust assessment and demonstration of prudence and efficiency capable of limiting capital expenditure to only that which is efficient. ECA's proposed changes would provide better accountability to gas networks in planning their proposed expenditure. While regulators do make efforts to examine business cases, they are not currently provided with sufficient information and demonstration with which to weigh these business cases against potential better value alternatives which may more efficiently promote the interests of energy consumers.¹²

Regardless of whether or not gas demand is expected to decline, tightened capital expenditure criteria would offer greater transparency to regulators and consumers over gas networks' activities, and a more robust basis for determining and demonstrating investment is warranted and promotes the interests of energy consumers.

We broadly agree with the identified costs and benefits of this rule change proposal.¹³

We interpret this rule change proposal can be divided into three key parts:

- Stricter criteria for the regulator to assess capital expenditure, including for replacement expenditure
- Stronger requirements for gas networks to consider and analyse all credible alternatives to the proposed investment
- Explicit removal of capital expenditure on renewable gases from reference tariffs.

We strongly support the intent of these three features. The proposal provides for more clarity in the rules, but there are aspects to further improve this to ensure the intent of the rule change is fully realised.

- The requirement to “consider” alternatives to investment in replacement does not place sufficient expectation on the network to truly scrutinise its proposal against alternatives. Experience with electricity networks demonstrates that stronger direction is required to ensure the alternatives are meaningfully assessed and that the preferability of any chosen option is clearly demonstrated and evidenced.
- A more detailed definition of future abolishment costs should be provided to ensure they are accounted for accurately and confined only to the necessary and reasonable efficient costs associated with abolishment. This definition is necessary to help mitigate incentives to manipulate or overestimate abolishment costs to present a stronger case for the preferred option in any cost benefit analysis.

Excluding capital expenditure on renewable gases from general reference tariffs is in the interests of current consumers, as many (or even most) current residential consumers will not be able to benefit from the investment or choose to be excluded from it. However, it may be preferable to amend this proposal to ensure that any capital expenditure on renewable gases may only be

¹² Energy Consumers Australia, 2025, [Gas Distribution Network Rule Change Requests: Capex criteria](#), p 15.

¹³ See Energy Consumers Australia, 2025, [Gas Distribution Network Rule Change Requests: Capex criteria](#), p 21.

recovered directly from producers or users of those gases, rather than preclude it altogether. This would be consistent with a beneficiary-pays approach.

Recommendation 4

That the Draft Rule adopts ECA's proposed rule change on capital expenditure criteria, with the following clarifications:

- *Requiring evidence of the preferability of a capital expenditure proposal compared to alternatives to investment, and*
- *Providing a more detailed definition of future abolishment costs.*

Types of operating expenditure

Changes to how expenditure is classified, and changes to what types of operating expenditure can be considered, are overdue and should be considered as part of measures to ensure the regulatory framework is fit for purpose. For instance, the definition of operating expenditure related to increasing demand in Rule 69(a) should be removed. Expenditure on decommissioning - for instance as part of measures to efficiently manage the impact of declining gas demand - should be explicitly recognised as valid operating expenditure.

Recognising appropriate new categories of operating expenditure associated with demand reduction, decommissioning and efficient alternatives to network replacement or augmentation helps to improve capacity for effective transition planning and the most efficient investment in and operation of networks.

We agree with the AEMC's observation that capital and operating expenditure decisions are likely to become more interrelated. However, we would add that, over time, an efficiently operating regulatory framework should increasingly preference operating expenditure over decisions which add to the capital base, given that capital additions to the RAB accentuate risk of asset stranding and accelerate the long-term cost impacts on consumers.

The proposed changes will help to rebalance the incentives in gas network planning, and help to ensure operating expenditure-based options are pursued where it is more efficient to do so.

Recommendation 5

That for Rule 69, the Draft Rule removes the example of operating expenditure related to increasing demand and inserts expenditure on decommissioning as an example of operating expenditure instead.

3.2 Accelerated depreciation and redundancy

The JEC and ECA have proposed rule changes responding to shared understanding of the issues caused by the use of accelerated depreciation to manage future asset stranding risk.

These rule changes both identify the critical problem that accelerated depreciation as it is currently used, unfairly shifts all risks associated with future demand and potential asset stranding, from gas networks and their investors to consumers. The proposals both detail the

consumer impacts resulting from this problem and demonstrate how it is fundamentally contrary to the consumer interest.

Additionally, as noted by the AER, “on its own, accelerated depreciation cannot resolve the issues faced by the gas networks and customers from the anticipated declining demand”.¹⁴ Given this, we contend that continuing to use accelerated depreciation according to current practice causes unfair consumer impacts, without any according benefit to consumers. The AER must be provided with more fit for purpose tools to manage redundancy risks and the fair sharing of costs. The preferred solutions presented by ECA and the JEC do not restrict the AER, but rather provide it with tools which are both more practical and more effective.

A fit for purpose regulatory framework should have appropriate mechanisms to manage asset stranding risk, but it must be both more effective and fairer for consumers. Accordingly, we contend there must be a more principled and consistent approach to:

- Identifying assets at risk of stranding,
- Quantifying the associated risks, and
- Determining a fair and equitable means of sharing the costs associated with those risks.

Accelerated depreciation, as it is currently used, does not do this. ECA and the JEC’s rule changes present the AEMC with a suite of alternatives to current practice in the use of accelerated depreciation. Between the two proposals, at least four options are presented:

- Prohibit accelerated depreciation unless undertaken in conjunction with the use of a mechanism to identify redundant assets and for the cost sharing of asset stranding costs (JEC preferred approach); Prohibit any accelerated depreciation by amending or deleting Rule 89.
- Allow only contingent accelerated depreciation (ECA preferred approach);
- Introduce a prohibition on varying the depreciation rates for existing assets.

Importantly, we do not consider the solutions proposed by ECA and the JEC to be mutually exclusive. The AEMC should consider the intent of the proposals and may determine that this is best delivered through a more preferable solution which combines aspects of both proposals. When doing so, we recommend the AEMC consider:

- Does the solution enable the more accurate identification and quantification of stranding risk?
- Does the solution involve a more robust, consistent and fair mechanism through which to determine and share the costs associated with stranding risks?
- Does the solution contribute to incentives for gas network service providers to identify and decommission parts of the network when it is efficient to do so?
- Does the solution support consumers to leave the network, especially in parts of the network that are inefficient to operate?
- Is there any previous inefficient investment for which networks should not be entitled to recover costs?

¹⁴ Australian Energy Regulator, 2025, [State of the energy market 2025](#), p 213.

The AEMC has appropriately characterised our assessment of the benefits and costs of the proposed solutions.

A better process to identify and manage redundant assets

A fit for purpose framework to enable planning for cost recovery of assets at risk of future stranding must be supported by a robust assessment redundancy framework.

The current NGR is impractical and ineffective as Rule 85(1) provides only an absolute definition of redundant assets (when they cease to be used in any way) and does not have capacity to consider redundancy related to the economic inefficiency of operating an asset. There is also no definition of anticipated redundant assets nor a corresponding provision for cost sharing of gas assets anticipated to become redundant. This risks assets being operated inefficiently until a point of ‘sudden disutility’, resulting in circumstances such as those currently being seen in relation to the Solstice networks in Victoria.¹⁵

We intend for our proposed changes to Rule 85 to better identify redundancy risk, including by identifying anticipated redundant assets, followed by appropriate apportionment of redundancy costs between investors and consumers accordingly to consistent and transparent guidelines.

Our proposed requirements for the redundancy assessment are robust, but we do not consider them onerous. The requirements present a planning process that a prudent business should undertake to mitigate likely asset stranding risk, and which may be related to other planning processes such as those proposed in ECA’s rule change. Formalising such a process in the rules enables these risks to be minimised as well as greater consistency, fairness and transparency over how these risks are shared between investors and consumers.

The redundancy assessment development would add some administrative costs for gas network service providers. The AER would similarly incur some additional costs in developing redundancy guidelines and evaluating redundancy assessments. We consider these costs likely to be reasonable, and outweighed by efficiency and equity gains for consumers, enabling a smoother ‘transition’ and the benefit of greater certainty of the future cost trajectory for energy consumers.

It is important to note that while intended to be implemented in concert, our proposed change to Rule 85 can be adopted regardless of the decision on whether/how to change Rule 89 and approaches to accelerated depreciation. Reform of asset redundancy provisions is a critical part of ensuring a fit for purpose regulatory framework for gas networks.

Recommendation 6

That the Draft Rule adopts a solution that provides appropriate mechanisms to manage asset stranding risk that is effective and fair for consumers. It must provide a principled and consistent approach to:

- *Identifying assets at risk of stranding,*

¹⁵ ABC, 2025, [Solstice Energy to cut gas supply to 10 regional Victorian towns](#)

- *Quantifying the associated risks, and*
- *Determining a fair and equitable means of sharing the costs associated with those risks.*

3.3 Planning requirements

ECA's planning rule change proposes that gas network service providers be required to provide Gas Annual Planning Reports (GAPR), similar to those required of electricity transmission and distribution networks. The proposal lists various requirements for the GAPR's contents, with the aim of the report providing a more accurate and transparent multi-year forecast for each gas distribution network to keep stakeholders up to date with the transition.

As noted earlier, this proposal could be considered as complementary to our proposed redundancy assessment process. Both place greater planning expectations on the gas network service provider and both address the need to identify assets at risk of redundancy and underutilisation. As discussed in our rule change proposal, the two proposals are distinct, with ours being more narrowly limited to current planning practicalities and ECA's providing a more long-term strategic view.¹⁶

We agree with the AEMC that the decommissioning of gas assets may need to be subject to a specific planning assessment and consultation framework. Combining aspects of the planning requirements rule change, JEC's proposed redundancy assessment and the strategic decommissioning framework proposed in ECA's submission should be considered in this context.

The AEMC must also consider how to ensure appropriate guidance and requirements are in place to be certain information provided by gas network service providers is robust and verifiable. As such, proposals for greater transparency of planning would be enhanced by sufficiently granular, independent demand forecasting. Given that gas networks have consistently underestimated demand,¹⁷ a robust source of verification or other means of driving accuracy will be important.

There is a risk gas network service providers will resist greater transparency requirements, given access arrangement proposals are often already subject to partial confidentiality claims. There is understandably some sensitivity around financial forecasts, but these concerns should be outweighed by the need to ensure transparent decision-making. Accordingly, we recommend the AEMC give strong weight to public interest in its consideration of the planning-related rule change proposals. As part of this, it should identify what type of information can truly be deemed commercial in confidence due to demonstrated, material commercial risks.

Recommendation 7

That the Draft Rule adopts ECA's proposed rule change on planning requirements. The AEMC should consider how this would be complemented by sufficiently granular, independent demand forecasting.

¹⁶ See Justice and Equity Centre, 2025, [Gas Distribution Network Rule Change Request](#), pp 14-15.

¹⁷ Institute for Energy Economics and Financial Analysis, 2024, [Gas networks are making persistent and significant supernormal profits](#), p 16.

4. Other issues identified by the AEMC

We commend the AEMC for expanding this process beyond consideration of the rule changes proposed by the JEC and ECA, and enabling a wider consideration of what is required to ensure the economic regulatory framework for gas networks is fit for purpose.

The objective to ensure the rule change requests are considered holistically within the broader framework will help to create durable and future-fit rule changes and recommendations. We recommend the AEMC also considers alignment with the gas connections/disconnections rule changes currently under consideration. They embody consistent principles and are grounded in a consistent intent to address aspects of the current regulatory framework which are no longer fit for purpose. These rule changes both affect the capital base, meaning there are strong interconnections with the accelerated depreciation rule changes contemplated in this process.

Recommendation 8

That the AEMC consider how the outcomes from this rule change process interact with other concurrent rule change processes and ensure these processes are informed by a consistent intent to create a fit for purpose gas regulatory framework.

4.1 Addressing the ‘growth bias’ in the regulatory framework

As we have noted elsewhere in this submission, the legal and regulatory framework is based on an underlying premise that networks are ‘perpetual’ and as such growth is inherently efficient. This distorts assessments of efficient investment in and operation of networks. It is particularly problematic where it is increasingly apparent that gas demand will decrease.

There are increasingly circumstances where efficient network decisions will involve limitations on new capital investment and planning for (and even actively managing) disconnection from the network. In any case, it is no longer true that growth can be assumed, and the legal and regulatory framework must adjust to accommodate this new reality.

As part of an objective to holistically consider what is required to ensure the gas regulatory framework is fit for purpose, we recommend the AEMC expand its scope beyond those issues already raised in the consultation paper, to identify further aspects of the NGL and NGR which are not consistent.

Reflecting the approach which has recently been taken in other rule changes processes - such as that relating to improvement of the application of energy concessions - it would be appropriate for the AEMC to identify and recommend wider law and policy changes, implemented via the MCE or by individual jurisdictional derogations.

Key priorities should include considering reform to sections of the NGL, and corresponding NGR, which concern principles of universal access to the network, preventing or hindering access, or the protection of contract arrangements. We contend these aspects of the framework are biased towards growth and contribute to inefficient outcomes and decision making which does not promote the interests of energy consumers. In this context we highlight sections 114, 133 and 136, of the NGL, and corresponding rules in parts 6, 8, 11, 12 and 12A of the NGR as areas the

AEMC should consider further.

We also note the need to consider updating the NGL to refer to more broadly to ‘energy consumers’, which we discuss in detail in section 4.3

There would also be benefit in ensuring the law enables greater flexibility by explicitly allowing network service providers to supply pipeline services, not only by the supply of gas via a pipeline, but via the supply of bottled gas. A time limited permission to supply via bottled gas, could assist in ensuring a smooth transition and balance efficient transition measures with maintaining services consumers rely on.

In recent determinations the AER¹⁸ noted that a ‘conversation’ is needed between governments, energy businesses, regulators and the community regarding how to ensure gas networks are an effective part of an equitable energy system transition, with the associated costs fairly shared. We strongly encourage the AEMC to regard this process as just such a platform for this ‘conversation’ and a critical opportunity to identify areas for reform. In this context, we strongly encourage the AEMC to make recommendations regarding required action outside of the immediate rule change processes under its purview.

Recommendation 9

That as part of this rule change process, the AEMC makes recommendations regarding required action outside of the immediate rule change processes under its purview, including recommending relevant wider law and policy changes.

4.2 Risks must be managed by those best placed to do so

The additional areas identified by the AEMC in the consultation paper relate to the critical question of how risk is managed and who is responsible for managing risks. As we have detailed earlier, the responsibility for future uncertainty of demand in gas networks must sit with gas network service providers, based on the principle that risks should sit with the party best placed to manage them.

The following sections further outline our stance on interrelated aspects of the regulatory framework identified in the consultation paper.

Access arrangements and long-term outlook

We do not support material changes to the access arrangement periods. Further, we argue there is no demonstrated case for greater discretion over access arrangement periods from a risk perspective:

- Shorter access arrangement periods would disincentivise longer-term planning, particularly in relation to price paths. We argue such a change would create significant risks for consumers in a time where longer-term strategic planning is essential.

¹⁸ Australian Energy Regulator, 2025, [Final decision - JGN access arrangement 2025-30 - Overview](#), p 23.

- Further extending access arrangement periods is impractical and may expose consumers to greater price risks, as the uncertainty of future demand and policy settings increases over the duration of the period, and reduces the effectiveness of planning.

We argue there is also no demonstrated case for changes to the re-opener provisions. Gas network service providers should be planning for the most likely future scenarios, including those of network decline to meet net zero targets. Allowing for re-openers conditional on policy changes reduces the incentives for gas network service providers to incorporate likely risks and plan for decline in the network. We consider such a change would exacerbate the current practices of shifting undefined demand risks onto consumers.

Aligning gas and electricity determination periods

As further discussed in section 4.3, there is merit to aligning decisions on gas and electricity distribution networks in the same area. The regulator could benefit from being able to make decisions on related networks in parallel, and electricity and gas networks could be encouraged to cooperate more closely on assessing, planning for and responding more efficiently and holistically to future scenarios.

Aligning the timing of these decisions could create increased workloads for regulators and stakeholders engaging in the process, but this could be offset by the opportunities for greater cooperation and scope for improved outcomes for consumers if it is done effectively.

While there could theoretically be benefit from gas network service providers providing long-term demand and expenditure forecasts, it is unclear how this long-term outlook would be generated and used in a meaningful way given the reality that uncertainty relating to gas networks exponentially increases over longer time periods. There is a danger such forecasts result in less useful information and actually obscure effective planning.

We consider the planning and redundancy changes proposed by the JEC place more robust expectations on network service providers to plan for the future and render any changes to longer term forecasting less critical. Equally, the more detailed information in these proposals, compared to general demand and expenditure forecasts, provides regulators with better information to assess proposals.

Pricing and incentives

It is not in the long-term interests of consumers to take on volume risk. In this context we broadly consider price cap regulation continues to be preferable. Gas network service providers have the greatest scope to manage volume risk and can (and should be encouraged or required to) do so by improved forecasting in conjunction with planned measures to actively facilitate long-term reductions to demand.

While price caps are currently the most commonly used tariff variation mechanisms, the AER recently approved a hybrid tariff variation mechanism for Jemena Gas Networks (JGN).¹⁹ This

¹⁹ Australian Energy Regulator, 2025, [Final decision - JGN access arrangement 2025-30 - Overview](#), p v.

decision provides a practical platform to assess and consider the reasoning behind such an approach relative to a price cap.

- JGN submitted that a hybrid tariff variation mechanism would contribute to lower volatility between periods.

While we consider price volatility within a regulatory period an important consideration given the consumer preference for predictable prices, the same is not necessarily true for price volatility between periods, which is seldom attributable to any one factor. Indeed, it is arguable that gas network price changes are the least material aspects of volatility between determinations – with gas prices increases and network cost increases (rather than variations due to demand) being much more significant.

Gas network service providers have ample opportunity to address price volatility during the expenditure proposal process. The same cannot be said of volatility between periods, where myriad other factors could override any notional stability that may be enabled by changes to the variation mechanism.

- The AER concluded that approving a hybrid tariff variation mechanism reflects the emissions reduction element in the updated NGO, as it reduces JGN's incentive to grow the volume of gas carried by its network.

We support the AER giving due consideration to the amended NGO, but we do not consider a hybrid tariff variation an efficient mechanism to address emissions reductions objectives when weighed against other options. Mitigating expenditure and enabling efficient electrification where possible more efficiently produces more material benefits for both consumers and climate.²⁰

We accept that price cap regulation can be seen to provide networks with incentive to underestimate demand and/or induce greater demand for their services than estimated. The planning requirements rule change proposed by ECA could help to mitigate such incentives.

The AER has also acknowledged that “revenue over recoveries may be due to incorrect initial demand forecasts, or forecasting error. Demand forecasting is inherently uncertain. It may be that we are approving volume forecasts that are too low.”²¹ This alone is not an argument for favouring hybrid or revenue-cap tariff variation, but rather a reason to improve independent demand forecasting and introduce consistent and robust incentives to actively lower demand. The ability for the AER to better forecast demand (or verify forecasts), including accounting for underestimation in previous access arrangement periods, can effectively mitigate incentives for networks to underestimate demands going forward. The demand uncertainty introduced by the transition may expose gas network service operators to downside demand risk with more likelihood going forward.

²⁰ See Justice and Equity Centre, 2025, [Submission to JGN access arrangement 2025-30 issues paper](#), p 28.

²¹ Australian Energy Regulator, 2023, [Review of gas distribution network reference tariff variation mechanism and declining block tariffs: Issues paper](#), p 15.

Incentive mechanisms

We are not supportive of introducing further economic incentive mechanisms for gas networks. We do not consider experience in electricity networks to make a strong case for the effectiveness of such incentive measures. In fact, the Institute for Energy Economics and Financial Analysis found that incentive schemes could be seen to have contributed to sector-wide supernormal profits for electricity distribution networks which did not correlate to productivity or efficiency gains.²² Given the circumstances facing gas networks we caution against introduction of further economic incentive mechanism to gas networks

In principle, we are supportive of regulation that promotes efficient investment in, and operation of, networks in the long-term interests of consumers. But it is inappropriate for incentive schemes to financially reward gas network service providers that have average or relatively low levels of total productivity or performance. If the AEMC considers recommending new incentive schemes to be introduced, it should ensure that these are tied closely with productivity benchmarking and integrated with overall efficiency performance. It is not in consumers' interest to fund incentive schemes through their bills, especially in an environment where gas bill costs are likely to rise.

Should there be wider consideration of the role of new incentive measures as part of a fit for purpose framework, we encourage the AEMC to consider the potential role of incentives to actively lower demand, identify the most efficient emissions reduction measures and efficiently manage the decommissioning of inefficient network assets.

Pipeline elections

Pipeline elections carry high risks for consumers and as such the regulatory framework in this area should default to avoiding increasing consumer exposure to risks. We note that the AER can self-initiate a review to either increase or decrease the level of regulation of a gas pipeline but cannot reject a service provider's voluntary election, it may be worth considering changes to this provision.

We do not see a strong case that the rule changes proposed in this package are likely to create meaningful incentives for non-scheme pipelines to elect to become scheme pipelines. On balance, any incentives to elect are outweighed by the 'burden' of greater regulation and narrower restrictions on investment and pricing.

Rather than considering incentives, it may be more appropriate to look at the framework for determining and changing the form of regulation of a pipeline to ensure it is effective at protecting consumers from additional risk.

Our default contention is that existing distribution pipelines should remain at their current level of regulation, and pipeline elections should be minimised. We consider that at this point it is the change in regulation (in either direction) which invites additional risks for consumers.

Regulated distribution pipelines should remain covered by default, as they provide some protection for consumers from price changes, inefficient investment and broadly ensure operators

²² Institute for Energy Economics and Financial Analysis, 2022, [Regulated Electricity Network Prices Are Higher than Necessary](#), p 8.

fulfill their responsibility to maintain services consumers rely on. Reclassifying them greatly increases the risks to service continuity and may invite the greater likelihood of situations such as those experienced by Solstice gas network customers.

Conversely, reclassifying existing non-scheme distribution pipelines risks shifting long-term costs onto consumers by ensuring they assume investment risks related to the potentially inflated RAB of pipeline service providers.

4.3 The needs of energy consumers must be considered holistically

Acceleration of the transition means that the needs of gas consumers and electricity consumers become increasingly inter-related. Similarly, decisions regarding efficient investment and operation of gas networks must increasingly consider options to electrify gas connections. As the AER notes, it is relevant in some circumstances to consider the interests of electricity consumers when making decisions under the national gas regulatory framework.²³ There is no regulatory provision for this however, as the current National Electricity Law and NGL treat the interests of gas consumers and electricity consumers as intentionally separate. Historically this may have been justifiable but the current reality requires holistically considering the interests of energy consumers as a whole.

In this context we strongly encourage the AEMC to recommend policy and law changes required to alter the national energy objectives so that the National Electricity Objective (NEO) and the NGO refer to the long term interests of consumers of **energy** rather than electricity and covered gas respectively.

This would indicate a substantive shift in how national energy frameworks are applied, to best promote the long-term interests of consumers through efficient investment, operation and use of energy services. Alignment of electricity and gas distribution decisions is a key part of a fit for purpose regulatory framework and crucial to ensure:

- Decisions can more consistently and effectively ensure consumers access the energy they need most efficiently and affordably.
- Gas network investments are only made when they are demonstrably the most efficient alternative, with electrification and decommissioning becoming alternatives to augmentation, replacement and emission reduction,
- Gas networks are decommissioned with sufficient capacity in the electricity network to efficiently accommodate and manage greater demand,
- Electricity networks can effectively incorporate greater utilisation through electrification into their planning.
- Judgements on what is hard to electrify are made accurately, enabling more effective responses and more targeted investment to ensure affected consumers can continue to

²³ Australian Energy Regulator, 2021, [Regulating gas pipelines under uncertainty](#), p x.

access the energy they need,

- The most efficient support for energy affordability, including optimal targeting of government subsidies to support electrification.

Recommendation 10

That the AEMC recommends policy and law changes required to alter the national energy objectives so that the National Electricity Objective and the National Gas Objective refer to the long term interests of consumers of energy rather than electricity and covered gas respectively.

5. Response to questions in consultation paper

Question 1: What are the issues impacting consumers and gas distributors under the energy transition?

Do stakeholders agree that there is value in considering the additional NGR issues we have identified alongside the issues raised in the rule change requests?

Are there any other additional issues that we should consider within the NGR framework? If so, why?

Noting the AEMC's role is to consider and make changes to the energy rules, are there changes outside the NGR regulatory framework that are required to address the issues raised in the rule change requests?

There is strong value in considering wider issues with the NGR and the wider regulatory framework, including:

- Other parts of the regulatory framework which promote a growth bias
- Ensuring the framework appropriately allocates risk to those well-placed to manage them
- Aligning the NGO and NEO to refer to the long-term interests of energy consumers holistically.

See section 4 of this submission for more detail.

Question 2: What changes, if any, should be made to the NGR capital expenditure criteria?

Are changes required to the current capital expenditure criteria to better account for uncertainty in future gas demand? If so, would ECA's proposed amendments better account for uncertain demand outlooks than the current criteria?

What do you consider would be the benefits and costs of ECA's proposed approach (for consumers, service providers and the regulator)?

Are there any alternative, preferable solutions to address the issues identified by ECA with the current capital expenditure criteria?

Do you consider changes are required to the rules in relation to advance determinations on capital expenditure in the context of the energy transition (rule 82)? If so, what are your views on the changes proposed by ECA (removing the provision or requiring the regulator to undertake consultation on proposals for advance determinations)?

Do you consider that additional types of expenditure may need to be recognised as capital expenditure in the context of the energy transition (e.g. decommissioning expenditure)?

Changes to the capital expenditure criteria are needed to ensure assessments of prudent and efficient are not predicated on unreasonable assumptions regarding the future growth of the network, but based on the actual circumstances of the network. The solution proposed by ECA effectively addresses this issue. Over time, an efficiently operating regulatory framework should increasingly preference operating expenditure over decisions which add to the capital base, given that capital additions to the RAB accentuate risk of asset stranding and accelerate the long-term cost impacts on consumers.

See section 3.1 of this submission for more detail.

Question 3: Are any changes required for operating expenditure?

Do you consider the current definition of operating expenditure (which includes expenditure for increasing long-term demand for pipeline services) is fit for purpose in the context of the energy transition?

Do you consider there are additional types of operating expenditure that may need to be recognised in the context of the energy transition?

Do you consider the regulatory framework appropriately balances the incentives between capital intensive solutions and asset management/maintenance solutions so that service providers have incentives to consider the most efficient options to address network needs? If not, what changes would be required to balance these incentives?

Changes to how expenditure is classified, and changes to what types of operating expenditure can be considered, are overdue and should be considered as part of measures to ensure the regulatory framework is fit for purpose. The proposed changes will help to rebalance the incentives in gas network planning, and help to ensure operating expenditure-based options are pursued where it is more efficient to do so.

See section 3.1 of this submission for more detail.

Question 4: Does the current framework effectively manage and allocate risk and costs between consumers and network service providers in the context of uncertain demand?

Do you agree with ECA and JEC that the current rules do not provide for appropriate consideration and management of assets at risk of becoming increasingly underutilised in the context of the energy transition, including consideration of how risk and costs are allocated between network service providers and consumers (including present and future consumers)?

Are there alternative solutions to those proposed in the ECA and JEC's rule change requests that would more effectively address cost recovery risks for efficient past and future investments?

Accelerated depreciation as it is currently used, unfairly shifts all risks associated with future demand and potential asset stranding, from gas networks and their investors to consumers. The proposals both detail the consumer impacts resulting from this problem and demonstrate how it is fundamentally contrary to the consumer interest.

ECA and the JEC's rule changes present the AEMC with a suite of appropriate alternatives to current practice in the use of accelerated depreciation.

See section 3.2 of this submission for more detail.

Question 5: How does ECA's proposal impact the recovery of capital costs for new and existing assets?

Do you consider changes are required to the depreciation provisions in the context of the uncertain outlook for gas demand (in terms of limiting variations to the rate of cost recovery and changes to asset lives)?

What do you consider would be the benefits and costs of ECA's proposed approach to restrict the use of accelerated depreciation through variations to the rate of cost recovery and changes to asset lives (for consumers, service providers and the regulator)?

What are your views on ECA's alternative solution of prohibiting the regulator from varying the depreciation rates for existing assets?

A fit for purpose regulatory framework should have appropriate mechanisms to manage asset stranding risk, but it must be both more effective and fairer for consumers. Changes are required to the depreciation provisions to ensure the regulatory framework is fit for purpose. The AEMC has appropriately characterised our assessment of the benefits and costs of the proposed solutions.

See section 3.2 of this submission for more detail.

Question 6: How does JEC's proposal impact the recovery of capital costs?

Do you consider changes are required to the capital redundancy provisions in the context of the energy transition and an uncertain gas demand outlook? If so, what amendments do you consider are necessary?

Do you consider the definition of redundant assets should be amended as proposed by JEC to include assets that are economically inefficient to use and anticipated redundant assets?

Do you agree with JEC's proposal that service providers and the regulator should use accelerated depreciation in conjunction with the redundant asset provisions only if used to address capital cost recovery risks or redundancy?

What do you consider would be the benefits and costs (for consumers, service providers and the regulator) of JEC's proposed approach to defining and assessing asset redundancy, and allowing for accelerated depreciation to address capital cost recovery risks only in conjunction with the redundant asset provisions?

What are your views on JEC's alternative solution to outright prohibit the use of accelerated depreciation?

A fit for purpose framework to enable planning for cost recovery of assets at risk of future stranding must be supported by a robust assessment redundancy framework.

The current NGR is impractical and ineffective as Rule 85(1) provides only an absolute definition of redundant assets (when they cease to be used in any way) and does not have capacity to consider redundancy related to the economic inefficiency of operating an asset. There is also no definition of anticipated redundant assets nor a corresponding provision for cost sharing of gas assets anticipated to become redundant. Our proposal to amend. The definition of redundant assets addresses these issues.

See section 3.2 of this submission for more detail.

Question 7: Are new planning requirements necessary?

Do you consider new planning-related reporting obligations for network service providers are required in the NGR to support more efficient decision-making by stakeholders? If so,

- *what information should be reported and for what purpose?*
- *what should be the reporting frequency?*
- *what pipelines should the requirements apply to: scheme, non-scheme, distribution, transmission?*

What do you consider would be the benefits and costs of ECA's proposed reporting requirements (for consumers, industry, gas and electricity network businesses and the regulator)?

Do you consider that any alternative solution would better promote the long term interest of consumers?

Greater planning and transparency of information is needed. This proposal could be considered as complementary to our proposed redundancy assessment process. Both place greater planning expectations on the gas network service provider and both address the need to identify assets at risk of redundancy and underutilisation.

There is a risk gas network service providers will resist greater transparency requirements, given access arrangement proposals are often already subject to partial confidentiality claims. There is understandably some sensitivity around financial forecasts, but these concerns should be outweighed by the need to ensure transparent decision-making.

See section 3.3 of this submission for more detail.

Question 8: Would a longer-term outlook on the gas transition support better regulatory decision-making?

What do you consider would be the costs and benefits of requiring service providers to provide demand and expenditure forecasts over a longer period than the relevant access arrangement period? What would be an appropriate longer-term period (e.g. 10, 15 or 25 years)?

While there could theoretically be benefit from gas network service providers providing long-term demand and expenditure forecasts, it is unclear how this long-term outlook would be generated and used in a meaningful way given the reality that uncertainty relating to gas networks exponentially increases over longer time periods. There is a danger such forecasts result in less useful information and actually obscure effective planning.

We consider the planning and redundancy changes proposed by the JEC place more robust expectations on network service providers to plan for the future and render any changes to longer term forecasting less critical. Equally, the more detailed information in these proposals, compared to general demand and expenditure forecasts, provides regulators with better information to assess proposals.

Question 9: Are changes to reference tariff variation mechanisms necessary?

Do you consider the NGR should provide more guidance to the regulator on when different reference tariff variation mechanisms (e.g. revenue cap vs price cap) should be used by service providers to appropriately allocate intra-period demand risk between the service provider and users?

If so, what would be the costs and benefits to consumers, service providers and regulators of providing more guidance in the NGR and/or bringing forward the regulator's decision on the applicable reference tariff variation mechanism?

It is not in the long-term interests of consumers to take on volume risk. In this context we broadly consider price cap regulation continues to be preferable. Gas network service providers have the greatest scope to manage volume risk and can (and should be encouraged or required to) do so by improved forecasting in conjunction with planned measures to actively facilitate long-term reductions to demand.

See section 4.2 of this submission for more detail.

Question 10: Are changes to the tariff rules necessary?

Do you consider the NGR should include more or different guidance to service providers on how reference tariffs should be structured in the context of the energy transition?

There is no strong need for the NGR to include more or different guidance to service providers on how reference tariffs should be structured in the context of the energy transition.

Question 11: Should the regulator be able to require shorter or longer access arrangement (AA) periods?

Do you consider the regulator should have more discretion to require a shorter or longer AA period than that proposed by the service provider? If so, what should be the criteria/principles to guide a regulator's decision on requiring a different AA period?

What do you consider would be the benefits and costs of aligning the timing of electricity and gas distribution decisions in relevant jurisdictions? What impacts would the alignment of the timing of these decisions have on regulators, service providers and stakeholders engaging in these processes?

We do not support material changes to the access arrangement periods.

There is merit to aligning decisions on gas and electricity distribution networks in the same area. The regulator could benefit from being able to make decisions on related networks in parallel, and electricity and gas networks could be encouraged to cooperate more closely on assessing, planning for and responding more efficiently and holistically to future scenarios.

See section 4.2 of this submission for more detail.

Question 12: Are changes required to the re-opener provisions?

Do you consider changes are required to the current re-opener provisions? If so, what changes do you consider are appropriate in the context of the energy transition?

What would be the costs and benefits of making changes to the re-opener provisions?

We argue there is no demonstrated case for changes to the re-opener provisions. Allowing for re-openers conditional on policy changes reduces the incentives for gas network service providers to incorporate likely risks and plan for decline in the network.

See section 4.2 of this submission for more detail.

Question 13: Should there be changes to the existing or additional incentive mechanisms?

Do you consider modified or additional incentive mechanisms should apply to service providers in the context of the energy transition?

We are not supportive of introducing further economic incentive mechanisms for gas networks. We do not consider experience in electricity networks to make a strong case for the effectiveness of such incentive measures.

See section 4.2 of this submission for more detail.

Question 14: Could the proposed changes inefficiently incentivise pipeline elections?

Would any of the changes considered in this consultation paper alter the incentive for non-scheme pipelines to elect to become scheme pipelines?

Pipeline elections carry high risks for consumers and as such the regulatory framework in this area should default to avoiding increasing consumer exposure to risks. We do not see a strong case that the rule changes proposed in this package are likely to create meaningful incentives for non-scheme pipelines to elect to become scheme pipelines.

Question 15: What can we learn from other jurisdictions/sectors?

Do you consider other changes to the regulatory framework for scheme pipelines are necessary to provide the regulator with the tools and appropriate level of discretion to manage the gas transition? If so, what would be beneficial?

We welcome the AEMC's work to examine experiences and approaches in other jurisdictions. However, we have some concerns with how this work has been presented and recommend

that more work is done to appropriately select and contextualise the examples examined to ensure meaningful conclusions can be drawn.

See section 2.3 of this submission for more detail.

Question 16: Assessment framework

Do you agree with the proposed assessment criteria? Are there criteria that you consider are not directly relevant to the issues raised in the rule change requests and the proposed solutions?

We broadly support the proposed assessment criteria but have some concerns with how they are characterised. We recommend clarifying the criteria to more appropriately centre equity and outcomes for consumers, in line with a more holistic consideration of what a 'fit for purpose' regulatory framework requires.

See sections 2.1 and 2.2 of this submission for more detail.

6. Continued engagement

We welcome the opportunity to meet with the AEMC project team and other stakeholders to discuss these issues in more depth. Please contact Kira van Os at kvanos@jec.org.au regarding any further inquiries.